

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

J. TIMOTHY HALTER,

Petitioner,

v.

CASE NO. 2:07-cv-580
CRIM. NO. 2:04-cr-189
JUDGE SARGUS
MAGISTRATE JUDGE KEMP

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On July 10, 2007, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255 be dismissed without prejudice to re-filing upon a final decision on petitioner's direct appeal, which action is still pending. Although the parties were explicitly advised of the right to object to the Magistrate Judge's *Report and Recommendation*, and of the consequences of failing to do so, no objections have been filed.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. Petitioner's request for discovery, judicial notice, production and copying of documents, and motion for recusal, Doc. Nos. 142-43, 146-47, are **DENIED**. Respondent's request for denial of petitioner's discovery motion, Doc. No. 144, is **GRANTED**. No discovery is needed concerning the fact that a 2255 motion should not be adjudicated while a direct appeal is pending. Respondent's request to strike the discovery motion, on the grounds that it contains scandalous, defamatory and false information is **GRANTED**.

This action is hereby **DISMISSED**.

IT IS SO ORDERED.

 8-30-2007

EDMUND A. SARGUS, JR.
United States District Judge